

**WT 03-66: CREATING A REAL FACILITIES BASED LAST MILE
COMPETITOR AND RURAL BROADBAND SERVICE WITH
UNLICENSED SPECTRUM ACCESS**

- NAF, *et al.* a coalition of WISPs, community networks, and users, has made two proposals in the comments. **First**, NAF, *et al.* suggest allocating 2500-2590 MHz band exclusively for unlicensed use, while MDS/ITFS licensees would operate in 2591-2690 ***without any sharing by unlicensed***. This will allow unlicensed to develop across a national band, as urged by equipment manufacturers, without the need to protect incumbents. It also allows MDS/ITFS licensees to develop their own services in the environment they think necessary. ***In the alternative***, NAF, *et al.* propose extending unlicensed access to the entire 2500-2690 band as providing necessary room for unlicensed to emerge as a real last mile and rural broadband solution.
- The record in this proceeding, supported by comments made in shows that congestion exists in the existing 2.4 GHz unlicensed band. This congestion makes it difficult to provide broadband services even in sparsely populated rural areas, let alone for community networks in poor urban areas.
- The history of unlicensed demonstrates that when the Commission opens up new spectrum free from bureaucratic incumbrances and stifling regulation, innovators have rushed in to fulfill this potential. Noncommercial speakers are also quick to avail themselves of such increased capacity, furthering the public interest and the interests of the First Amendment.
- Section 7 of the Communications Act states that it is the policy of the United States “to encourage the provision of new technologies” and that “any person or party who opposes a new technology proposed to be permitted under this Act shall have the burden to demonstrate that such proposal is inconsistent with the public interest.” In other words, ***the burden to prove that unlicensed access causes harmful interference lies with those who oppose it***. Opponents of unlicensed access have not met this burden, but have only responded with fear that allowing unlicensed operations in this band ***might*** interfere with some older, analog services.
- Unlicensed is fully compatible with ITFS. It is a crucial supplement for many community colleges, vocational schools, colleges, universities and other educational institutions.
- As use of unlicensed networks increases for video, IP telephony, and other advanced services, educational institutions and others are experiencing increasing congestion issues.
- The 2500-2690 band, because of its proximity to the existing 2.4 GHz unlicensed band and its superior propagation characteristics, is uniquely suited for unlicensed.
- Contrary to the statements of opponents, the NPRM contained more than adequate notice under the APA to implement NAF, *et al.*’s proposals. ¶¶79-82, 143-45. However, additional notice of NAF, *et al.*’s reallocation proposal might encourage broader participation and might therefore be warranted for this reason.